



Appeal Decision

Site visit made on 29 October 2020

by Steven Hartley BA (Hons) Dist.TP (Manc) DMS MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 06 November 2020

Appeal Ref: APP/C5690/W/20/3247532

82 Manor Park Road, London SE12 5RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Yemi Bello against the decision of the London Borough of Lewisham.
 - The application Ref DC/19/114535 dated 7 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is retrospective planning permission for the alteration and conversion of 82 Manor Park, SE13 into 1 x No. three and 2 x No. two bedroom self-contained flats, together with the construction of a single storey extension to the side and rear, roof extensions in the rear roof slopes, raised terrace to the rear and the installation of 3 new windows in the elevation.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application forms describe the development as '*(i) conversion of single dwelling into 1x3 bed flat +2x2 bed flats; (ii) erection of single storey rear infill extension; (iii) rear garden decking;(iv) additional windows to side elevation and (v) retrospective planning for left conversion*'.
3. However, the decision notice and the appeal forms describe it as '*Retrospective planning permission for the alteration and conversion of 82 Manor Park, SE13 into 1 x No. three and 2 x No. two bedroom self-contained flats, together with the construction of a single storey extension to the side and rear, roof extensions in the rear roof slopes, raised terrace to the rear and the installation of 3 new windows in the elevation*'. I have determined the appeal on the basis of the latter description as this more precisely describes the proposal.
4. The London Plan 2016 (LP) forms part of the development plan for the area. Reference is made in the appeal to the draft, revised London Plan which has been published and been the subject of an Examination but is not yet adopted. Therefore, I can only afford the draft plan limited weight.

Main Issues

5. The main issues are (i) the effect of the proposal upon family housing supply; (ii) the effect of the development upon the living conditions of occupants in terms of internal space provision and outlook; (iii) whether or not there would be unacceptable flood risk and (iv) the effect of the proposal upon the living

conditions of the occupiers of No 80 and No 84 Manor Park Road in respect of light and privacy.

Reasons

Family housing

6. 82 Manor Park Road is a three-storey semi-detached property with a garden to the rear and was originally a family sized dwelling. It has been converted into a 1xNo three-bedroom and 2xNo two-bedroom self-contained apartments for which retrospective approval is now sought.
7. Policy DM3 of the Council's Development Management Local Plan 2014 (DMLP) opposes the conversion of single-family houses into flats unless environmental conditions or a lack of amenity spaces mean that their use is not suitable for family purposes.
8. Moreover, the Lewisham annual monitoring report 2017 to 2018, while now somewhat dated, concludes that family sized dwellings have represented the minority of new dwellings coming forward and that therefore, the further conversion of family dwellings should be limited in accordance with the requirements of policy DM3 of the DMLP.
9. During my site visit, I was able to see that none of the exceptions to policy DM3 applied. In particular, the house is not adjacent to any exceptional noise generating or other environmentally unfriendly uses and there is amenity space to the rear.
10. The proposal is for the subdivision of the family house into apartments and whilst one would have 3 bedrooms and might be considered to be a family dwelling, the original, larger family home would be lost.
11. DM3 of the DMLP is reflective of paragraph 61 of the National Planning Policy Framework 2019 (the Framework) which expects each Local Planning Authority(LPA) to develop policies to meet the different types of accommodation required in its area, and it also reflects the similar aim of policy 3.8 of the LP and also that of policy 1 of the Council's Core Strategy 2011(CS).
12. I have no evidence before me that sufficient new family homes are being provided to merit an exception to the policy or that the restriction on such subdivisions should no longer apply because of market forces or that the policy is now out of date because of the changed demographic composition of the area. For these reasons, I do not consider that the subdivision of the property into separate units of accommodation should outweigh the loss of a larger family home.
13. Both parties refer to an earlier planning approval for the alteration, extension and conversion of the property into 3 flats¹. However, this was prior to the adoption of the LP, DMLP and the CS which now form the development plan for the area. Furthermore, these planning approvals pre-date the publication of the Framework.

¹ DC/11/76501/X

14. Reference has also been made to an earlier appeal decision of 2016² relating to the property. This proposal was for the subdivision of the family home into 4 flats rather than three. The Inspector found that there were no grounds for an exception to be made to the policy framework, a conclusion with which I agree. I afford this appeal decision very significant weight, as a material planning consideration.
15. For the above reasons, I therefore conclude that the proposal to subdivide the dwelling would have a harmful effect upon the supply of family housing in the area, contrary to policy DM3 of the DMLP; policy 3.8 of the LP; policy 1 of the CS and paragraph 61 of the Framework. These policies seek to retain suitable family houses in order to meet local needs and to create mixed and balanced communities.

Living conditions – internal space and outlook

16. The occupiers of the ground floor bedrooms would overlook a narrow side passage and flank wall of the neighbouring property. However, while the outlook is restricted, I do not consider it to be unreasonably unsuitable or enclosing.
17. The DMLP requires compliance with the Nationally Described Space Standards 2015 (NDSS) as contained within policy 3.5 of the LP. This requires a 'minimum' floor to ceiling height of 2.3 metres for at least 75% of the gross internal area.
18. The LPA asserts that the second-floor flat would have a floor to ceiling height of some 2.05 metres. The appellant considers that the second-floor extension at the back is 2.15 metres high and that the rest is 2.2 metres and was signed off by the Council's Building Inspector. Furthermore, the appellant considers that, as the internal floorspace standards exceed the minimum requirements of the technical guidance, this should outweigh the discrepancy regarding ceiling heights. However, the technical guidance covers both floorspace requirements and room heights and there is a requirement to meet both minimum standards. I have no other information before me relating to the Building Control certification. In any event, I have determined the application on the proposal before me and against minimum requirements as set out in the NDSS.
19. I have no evidence that the occupants of the first and second floor flats would have no access to the rear external outside amenity space. While it may be possible to subdivide such space for use by all residents, or it might be treated as communal space for all, that is not the proposal before me. I do not consider that the proximity of public open space some 300 metres away from the site would provide sufficient compensation. There is a clear difference between the use of private and public spaces.
20. I therefore conclude that the development would not accord with Policies 3.5, 7.4 or 7.6 of the LP which require good design, nor with policy CS15 or DM30 and DM32 of the DMLP which require the same, or with the minimum standards detailed in the NDSS.

² APP/C5690/W/16/3156655

Flood risk

21. The LPA asserts that the proposed development lies within a Flood Zone 2 area and that a detailed flood risk assessment (FRA) is required. It states that insufficient details have been provided in this regard. It refers to these same issues relating to the earlier appeal decision. The appellant, on the other hand, refers to the Environment Agency's flood map which appears to show the site within Flood Zone 1 and where no such FRA is required. In addition, the property is already in domestic use and will remain so, whether as one large family home or as flats.
22. The submitted flood risk map is to a small scale and I do not have before me any current comments, guidance or advice from the Environment Agency. On balance, I cannot be certain that the ground floor extension and proposal would not result in an unacceptable risk to flooding. Therefore, I cannot be certain that the proposal would accord with the flood risk requirements of policy 5.12 of the LP.

Living conditions of neighbours – light and privacy

23. The proposed development includes raised decking to the rear and fencing to the sides and against No 80 and 84 Manor Park Road. While the decking is raised up quite considerably, I do not consider that it would be unduly prominent or that it would be dominating when viewed from these neighbouring properties. Given its position and extent, I do not consider that it would lead to significant loss of privacy for the occupiers of the two adjoining properties. Furthermore, given the position and scale of the decking, I do not consider that it would result in a material loss of light to neighbouring buildings.
24. I consider that side fencing panels between the adjoining properties are not so tall as to adversely affect the living conditions of the occupiers of the adjoining properties in terms of outlook.
25. Therefore, I conclude that the proposal would not cause any significant harm to the occupiers of No 80 and No 84 Manor Park Road in terms of privacy and light. To this extent, the proposal would accord with the requirements of policy 15 of the CS in so far as these matters relate to good design, and with DM31 of the DMLP which aims to protect the privacy and amenities of adjoining residents.

Other Matters

26. I have considered the fact that the appellant and his disabled wife cannot manage the stairs in the property and as such, if the upper floors are not used as apartments, this space may remain unused. However, it may be possible for alternatives to the use of stairs. Therefore, I can only give this matter limited weight in the overall planning balance. It is not a matter that outweighs the considerable harm I have found in respect of my conclusions on the main issues.
27. I note that in the Council's delegated officer report, an objection is made in respect of the proposed L-shaped roof extension on the basis that it would not be subordinate to the main roof form and also because of its design and

appearance. However, this has not be translated into the Council's refusal notice. As I am dismissing the appeal because of my conclusions on the main issues, it has not been necessary for me to pursue this matter any further. Even if I had found this issue to be acceptable, that would not alter or outweigh my conclusions on the main issues.

Conclusion

28. I have found that the rear decking and fencing would not cause significant harm in living condition terms, and I have not been able to conclude with any certainty regarding flood risk. However, I have concluded that the proposal would lead to the loss of a large family home, a matter to which I afford significant weight in the planning balance, and I have also found that the proposed development would be deficient in terms of technical housing requirements. Therefore, I conclude that the appeal should be dismissed.

Steven Hartley

INSPECTOR